

MEMORANDUM

Agenda Item No. 4(I)

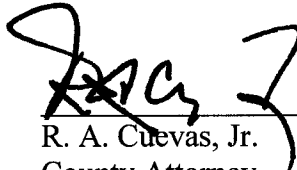
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: October 2, 2007

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to
Art in Public Places

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.



R. A. Cuevas, Jr.
County Attorney

RAC/bw



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

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FROM: 
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Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(I)
10-2-07

ORDINANCE NO. _____

**ORDINANCE RELATING TO ART IN PUBLIC PLACES;
AMENDING SECTION 2-11.15 OF THE CODE OF MIAMI-
DADE COUNTY, FLORIDA TO PROVIDE FOR RESERVE
MAINTENANCE ACCOUNT AND PROVIDING MINIMUM
ALLOCATIONS TO THAT ACCOUNT; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE AND
EFFECTIVE DATE**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-11.15 of the Code of Miami-Dade County, Florida, is hereby
amended as follows:¹

Sec. 2-11.15. Works of art in public places.

1. *Art-in-public-places program.*
 - (a) *Appropriation for construction to include amount for works of art.* Miami-Dade County and each municipality in Miami-Dade County shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1 1/2) percent of the construction cost of new governmental buildings, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund. To the extent the total appropriation is not used for the acquisition of works of art for said buildings, the remainder may be used for:
 - (1) Program administrative costs, insurance costs or for the repair and maintenance of any works of art acquired under this section; or
 - (2) To supplement other appropriations for the acquisition of works of art

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

under this section or to place works or art in, on, or near government facilities which have already been constructed.

>>(b) Reserve Maintenance Account. A portion of the money appropriated under this section shall be reserved for maintenance, restoration and repair of the existing works of art acquired or commissioned by the Art in Public Places program. The funds in this reserve maintenance account may not be used for the acquisition of new works of art or for the educational and administrative functions of the program. For the fiscal years of 2007-2008 and 2008-2009, at least 33% of the funds collected in a fiscal year shall be reserved or expended for the maintenance, restoration and repair of the works of art acquired or commissioned by the Art in Public Places program. For the fiscal years 2009-2010 and 2010-2011, at least 25% of the funds collected in each fiscal year shall be reserved or expended for this purpose. Commencing with the fiscal year 2011-2012 and thereafter, at least 20% of the funds collected by the Art in Public Places program shall be reserved or expended for this purpose. Subject to the limitations of funding sources, funds may be aggregated to be used on any maintenance, restoration or repair effort for a work of art.<<

[[b]] >>(c)<<Waiver of requirements. The requirements of subsection (a) may be waived by resolution of the Board of County Commissioners of Miami-Dade County when and if it appears to said Board that a construction project covered hereunder is not appropriate for application of the above requirements.

[[e]] >>(d)<<Definitions. For the purpose of this section, the following terms are hereby defined:

- (1) *Works of art* is defined as the application of skill and taste to production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, lighting designs and drawings.
- (2) *Construction cost* is defined to include architectural and engineering fees, site work, and contingency allowances. It does not include land acquisition or subsequent changes to the construction contract. All construction costs shall be calculated as of the date the contract is executed.

2. *Art-in-Public-Places Trust.* There shall be an Art-in-Public-Places Trust to administer the program.

(a) *Purpose.* The Trustees of the Art-in-Public-Places Trust shall act in the public interest upon all matters relating to the program and shall support the program's

goals and objectives. The Trustees' responsibilities include the selection, maintenance, planning, public education and curating of all works of art acquired by the program.

- (1) Membership; qualifications. The Trust shall be composed of fifteen (15) Trustees appointed to staggered terms by the Board of County Commissioners, serving without compensation. Each Board member shall be appointed to a term which shall end concurrently with the last day of the term of the County Commissioner who appointed the Board member, as provided in Section 2-11.38 of this Code. If a vacancy occurs prior to the expiration of the Board member's term, the County Commissioner who appointed that member shall appoint a new member to fill the balance of the term. Additionally, the Mayor shall appoint two (2) members of the Board of County Commissioners to sit as ex officio Trustees. Each Trustee must be knowledgeable in public art, must be a resident of Miami-Dade County and may not operate, own or be employed by any art dealer, art gallery, artists' representative, museum or other entity which derives income from the sale or display of art work. Membership is governed by Sections 2-11.38 and 2-11.39 of the Miami-Dade County Code.
 - (2) Term of office. No trustee shall serve more than eight (8) consecutive years on the Council; provided that this limitation shall not be applicable to Trustees with unexpired terms on November 1, 1993 who were reappointed after that date. Nothing shall prohibit any individual from being reappointed to the Trust after a hiatus of two (2) years.
 - (3) Duties. The Trustees shall prepare a master art plan to ensure a coherent acquisition program and implementation guidelines, both of which shall be approved by the Board of County Commissioners. The Trustees shall approve all program acquisitions in accordance with the master art plan and implementation guidelines and shall oversee the public education, and curatorial aspects of the program. The Trustees shall recommend to the County Manager an Executive Director, a budget for staff and other expenditures necessary to operate the program and shall deliver an annual report to the Board of County Commissioners.
- (b) *Professional Advisory Committee.* The Professional Advisory Committee shall be composed of eleven (11) members appointed by the Trust, and shall be compensated for professional services in accordance with a schedule established by the Trust, although this shall not preclude donation of such services.
- (1) Membership, qualifications. Each member of the professional advisory committee shall be a professional in the field of art, architecture, art

history, or architectural history. Members' reasonable expenses shall be reimbursed at a uniform rate to be established from time to time by the Trust.

- (2) Term of office. Each Professional Advisory Committee member shall serve a two-year term and may be reappointed for a total of three (3) consecutive terms.
 - (3) Duties. The Professional Advisory Committee will screen submissions and will recommend to the Trust for each acquisition not more than three (3) possible selections, which may be existing works of art or new commissions.
 - (4) Proceedings. For each acquisition the Trust shall direct the Professional Advisory Committee to act as a committee of the whole or in smaller subcommittees.
- (c) *Selections of works of art.* All acquisitions will be in accordance with the master art plan. Trustees shall approve each acquisition from those elections recommended by the Professional Advisory Committee. The County Manager will negotiate and execute appropriate contracts to acquire each approved work of art. Funds may be aggregated to acquire works of art.
- (1) Selection criteria. In the selection process, the following principles shall be observed:
 - a. Works of art shall be located in areas where residents and visitors live and congregate and shall be highly accessible and visible.
 - b. Areas used by tourists, including the airport, seaport, beaches, parks and thoroughfares, shall each have a separate master plan which shall be incorporated as a portion of the master art plan.
 - c. The Trustees should consider the inherently intrusive nature of public art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
 - d. The Trust's selections must reflect the cultural and ethnic diversity of this County without deviation from a standard of excellence.
 - e. Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions

at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the Trust, diversity of the artists whose work has been acquired by the Trust.

- (d) *Master art plan and implementation guidelines.* The Trustees shall adopt and publish a master art plan and written uniform guidelines to govern the manner and method of the submission of proposed works of art to the Professional Advisory Committee, the process by which the Professional Advisory Committee shall make recommendations to the Trustees and the process by which the Trustees shall approve acquisition. These shall be approved by the Board of County Commissioners. Purchases and Commissions pursuant to such approved guidelines shall be reflected on the information section of the Commission agenda, but shall not require Commission approval.

3. *Ownership and Upkeep.* Ownership of all works of art acquired by the County under this section is vested in Miami-Dade County. The Art-in-Public-Places Trust is charged with the custody, supervision, maintenance and preservation of such works of art. In each instance, the County shall acquire title to each work of art acquired.

4. *Personnel.* The County Manager shall provide adequate and competent clerical and administrative personnel as may be reasonably required by the Trust for the proper performance of its duties, subject to budget limitations.


Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to
form and legal sufficiency.



Prepared by:



Deborah Bovarnick Mastin

Sponsored by Senator Javier D. Souto